

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DARNELL OTIS MCGARY,
Plaintiff,

v.

DR. LARRY ARNOLT, et al.,
Defendants.

Case No. C03-5589RJB

ORDER DENYING PLAINTIFF'S
MOTION TO REOPEN CASE

This matter comes before the court on plaintiff's Motion to Reopen the Above Cause Due to Conspiracy Which was Dismissed Without Prejudice. Dkt. 59. The court has reviewed the motion and the file herein.

On October 28, 2003, plaintiff, a resident confined to the Special Commitment Center (SCC) pursuant to RCW 71.09, filed a civil rights action. On July 30, 2004, the court adopted the Report and Recommendation of U.S. Magistrate Judge Karen L. Strombom, dismissed plaintiff's first amended complaint on the basis that the claims were barred by the statute of limitations, and permitted plaintiff the opportunity to file a proper amended complaint. Dkt. 41. Plaintiff failed to file a proper amended complaint. On October 18, 2004, the court adopted the second Report and Recommendation of Magistrate Judge Karen L. Strombom and dismissed the case. Dkt. 59. Plaintiff appealed to the Ninth Circuit U.S. Court of Appeals. Dkt. 52. On December 20, 2004, the Ninth Circuit certified that the appeal was not taken in good faith, revoked plaintiff's *in forma pauperis* status, and ordered him to pay the filing fee on appeal. Dkt. 57. Plaintiff failed to do so, and on January 25, 2005, the Ninth Circuit issued its mandate dismissing the appeal for failure to prosecute. Dkt. 58.

1 On June 22, 2005, plaintiff filed a motion, requesting that this case be reopened because of change
2 in circumstances. Dkt. 59. Plaintiff stated that he has filed civil actions, C05-5317RBL, C05-5284FDB,
3 and C05-5376RBL, that show a conspiracy to commit murder and to cover up actions of the legislative
4 body. *Id.* Petitioner also claims that the claims in his complaint in this matter should not have been barred
5 by the statute of limitations.

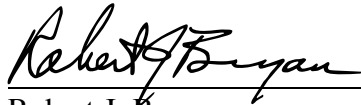
6 This case has been dismissed, and mandate was issued by the Ninth Circuit U.S. Court of Appeals.
7 Plaintiff has not shown good cause for reopening this matter. Accordingly, his motion to reopen the case
8 should be denied.

9 Therefore, it is hereby

10 **ORDERED** that plaintiff's Motion to Reopen the Above Cause Due to Conspiracy Which was
11 Dismissed Without Prejudice (Dkt. 59) is **DENIED** .

12 The Clerk of the Court is directed to send uncertified copies of this Order to all counsel of record
13 and to any party appearing *pro se* at said party's last known address.

14 DATED this 5th day of July, 2005.

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17 Robert J. Bryan
18 U.S. District Judge
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